

Memorandum

To : CALFED Management Team

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Subject : Phase II Decision-Making Process for the CALFED Bay-Delta Program

Below is a brief listing of the environmental statutes with which the CALFED Bay-Delta Program will have to comply. Although some of these requirements will be met in the Phase III site-specific proposals, many will be addressed during the Phase II Programmatic EIR/EIS phase. Many of the entities that make up CALFED have regulatory responsibilities over the ultimate solution reached in the CALFED Bay-Delta Program process.

CALFED Agencies' Regulatory Responsibilities

Endangered Species Act

CALFED must consult with FWS and NMFS under Section 7 of the Endangered Species Act, to ensure that proposed CALFED actions will not jeopardize the continued existence of federally listed endangered or threatened species, or result in the destruction or adverse modification of the critical habitat for these species.

California Endangered Species Act

CALFED must consult with DFG under the State Endangered Species Act to ensure that proposed CALFED actions will not jeopardize the continued existence of any State listed endangered or threatened species.

Fish and Wildlife Coordination Act

CALFED must consult with FWS and DFG under the Fish and Wildlife Coordination Act. This consultation is intended to promote the conservation of wildlife resources and provide for the development and improvement of wildlife resources in connection with water projects.

Clean Water Act, §404

CALFED intends to satisfy the requirements of 404(b)(1) analysis to the extent possible at the programmatic level, rather than at the project specific level. This will require the preparation of a 404(b)(1) analysis that conforms to Corps standards, including, but not limited to, substantiation of the water dependent nature of the project, justification of the range of alternatives, and discussion of the least damaging practicable alternative.

Water Rights

The State Water Resources Control Board is responsible for permitting water diversions throughout the state. Some CALFED actions could include the purchase of water rights, transfers of water rights from existing water rights holders, or changes in use or point of diversion. Any of these actions would require a modification of existing water rights. In addition any action proposing to divert water from a surface water source for use on non-riparian land, or storing unappropriated surface water seasonally would require a water right permit.

Other Issues of Environmental Compliance

Coastal Zone Management Act

National Historic Preservation Act

Farmland Preservation/Farmland Protection Policy

Federal Agriculture Improvement and Reform Act

Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands)

Executive Order 12898 (Environmental Justice)

American Indian Religious Freedom Act

State Lands Commission - Navigable Waters and Public Trust Doctrine

State Reclamation Board - Encroachment Permit

Department of Fish and Game - Streambed Alteration Agreements

Department of Water Resources - Division of Safety of Dams

Water Quality Requirements - Clean Water Act/Porter-Cologne EPA/SWRCB and Regional Boards